IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9229 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NATIONAL INSURANCE CO. - Petitioner(s)
Versus
JANAKKUMAR NANJI KOLI & 1 - Respondent(s)

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Appearance :
MR DAKSHESH MEHTA for Petitioner(s) : 1,
MR HM LATHIA with MR PARAS LATHIA for Respondent(s) : 1,
RULE UNSERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 05/07/2007

ORAL JUDGMENT

By filing this petition the petitioner has challenged order passed below Exh. 79 dated 17/2/2007 by the Motor Accident Claims Tribunal, Dist.

Rajkot at Dhoraji in Claim Case No. 70 of 1987 [old Claim Case No.371 of 1984], whereby the Tribunal has permitted respondents to convert Claim Petition filed under section 166 of the Motor Vehicles Act [for short 'MV Act'] to one under section 163-A of the MV Act.

I have heard Mr. Daxesh Mehta, learned advocate for the petitioner and Mr. Lathia, learned advocate for respondents. During the course of the arguments it is declared by Mr. Lathia that he now does not press his original application praying for converting the petition under section 163-A from under section 166 of the MV Act and he also states that he has no objection if the impugned order is quashed. Mr. Mehta has also brought to my attention the decision rendered in the case of Narshiji Nagaji Majirana v/s. Mangilal Amturam Bishnoi reported in 2005 ACJ 19 to substantiate his submission that the claimant when he obtains interim award under section 140 of the MV Act he cannot be permitted to convert petition under section 166 of the MV Act to one under section 163-A of the MV Act. The submission of Mr. Mehta gets full support from the decision. In view of this also, the impugned order is quashed and set aside. The petition is allowed. Rule made absolute with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.